

REMARKS

The outstanding issues are as follows:

- Claims 1, 2, and 8 are rejected under 35 U.S.C. § 102(b);
- Claims 3-7 and 9-18 are rejected under 35 U.S.C. § 103(a);

Applicant hereby traverses the outstanding rejections.

I. Claim Rejections – 35 USC § 102

Claims 1, 2, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Averbauch et al. (US 5867785, hereinafter Averbauch). However, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2143. Applicant respectfully asserts that each and every element as set forth in the claim cannot be found in a single prior art reference.

A. Claim 1

Claim 1 requires associating a station of a wireless switch with a first access point and associating a second station of said wireless switch with a second access point, wherein the Examiner reads “combinations of items 202, 203, 204, 206 and 200 in Figure 2” onto a station and second station of a wireless switch, leaving Applicant to guess which elements or combination of elements the Examiner is reading onto the station and second station. However, Applicant maintains that Averbuch does not teach these limitations. Averbuch teaches a system wherein a plurality of mobile communication units 207-213 are wirelessly coupled to plurality of mobile base sites 202-205. These mobile base sites are coupled to a mobile system controller 200, wherein controller 200 is further coupled to repeater or base station 206 to permit controller 200 to communicate with the stationary system controller 101 via a stationary base site (e.g., 109). Applicant notes that base station 206 is most akin to Applicant’s station, yet Averbuch teaches a system with only one base station 206. As such,

Averbuch does not teach associating a station of a wireless switch with a first access point and associating a second station of a wireless switch with a second access point, much less monitoring the signal strengths of the first and second access points and switching routing of data in response to the monitoring. Thus, Averbuch does not teach each and every element as set forth in the claim. Therefore, Applicant respectfully asserts that claim 1 is not anticipated by Averbuch and requests that the rejection be withdrawn.

B. Claims 2 and 8

Claims 2 and 8 each depend from and inherit the limitations of claim 1. As discussed above, Averbuch does not teach each and every element as set forth in claim 1. Thus, Averbuch does not teach each and every element as set forth in the claims 2 and 8. Therefore, Applicant respectfully asserts that claims 2 and 8 are not anticipated by Averbuch and requests that the rejection be withdrawn.

II. Claim Rejections – 35 USC § 103

A. Claims 9, 13, and 18; Averbuch and Park

Claims 9, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Park et al. (US 6609003, hereinafter Park). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and MPEP 2142. Applicant respectfully asserts that not all criteria have been met.

B. Lack of Motivation

It is well established that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. See *In re Vaeck*, 947 F.2d

488, 20 USPQ2d 1438 (Fed. Cir. 1991) and MPEP 2142. The motivation provided for combining the teachings of Averbuch and Park is that “it would be obvious to one of ordinary skill in the art at the time of invention to use plurality of stations communicating with external access points to provide macro diversity and is well known in the art,” (Office Action at page 4). Applicant respectfully points out that Park teaches a method wherein a mobile station is handed off between a plurality of base stations (Abstract) and that Averbuch already has a mobile station (communication units 207-213) and a plurality of base stations (stationary base sites 102-112). As such, there is no motivation to make the combination proposed by the Examiner. Therefore, Applicant respectfully asserts that Averbuch in view of Park does not render the claims *prima facie* obvious and requests that all rejections based on Averbuch in view of Park be withdrawn.

1. Lack of Limitations, Claim 9

Claim 9 recites “a plurality of stations for communicating with external access points.” Averbuch in view of Park does not teach or suggest these limitations. The Office Action, at page 4, admits that Averbuch “does not teach expressly plurality of stations for communicating with said plurality of access points.” The Office Action then refers to the teachings of Park to meet these limitations, citing “Abstract; Col. 6, lines 33-41, ‘soft handoff’, ‘multiple antennas’”, leaving Applicant to guess as to which of and how the teachings of Park are being read to meet the claim limitations. However, Applicant respectfully maintains that Averbuch in view of Park does not teach or suggest the limitations of claim 9. Apparently, the Examiner is relying upon Park’s teaching of a base station comprising multiple antennas as teaching a plurality of stations. Applicant points out that Park’s base stations are analogous to Averbuch’s stationary base sites 102-112 and are believed by Applicant to be most akin to the claim’s external access points. As such, the Examiner is in effect, improperly attempting to read Averbuch’s stationary base sites 102-112 and Park’s base stations (comprised of multiple antennas) onto two distinct claim limitations, namely, a plurality of stations and external access points.

Further, even if one were to read Park’s multiple antennas to meet a plurality of stations, the claims would still not be met. Applicant notes that Park’s mobile stations are

analogous to Averbuch's communication units 207-213 and are most akin to the claims plurality of wireless devices. Applicant respectfully points out that the base station (to which the multiple antennas are connected) communicates with mobile stations (see Park, Abstract and column 6, lines 34-35) and not with a plurality of access points. As such, Averbuch in view of Park does not teach or suggest a plurality of stations for communicating with said external access points. Thus, the prior art references when combined do not teach or suggest all the claim limitations. Therefore, Applicant respectfully asserts that claim 9 is patentable over Averbuch in view of Park and requests that the rejection be withdrawn.

2. Lack of Limitations, Claim 13

Claim 13 recites "a plurality of stations for communicating with said plurality of access points." Averbuch in view of Park does not teach or suggest these limitations. The Office Action, at page 5, admits that Averbuch "does not teach expressly plurality of stations for communicating with said plurality of access points." The Office Action then refers to the teachings of Park to meet these limitations, citing "Abstract; Col. 6, lines 33-41, 'soft handoff', 'multiple antennas'", leaving Applicant to guess as to which of and how the teachings of Park are being read to meet the claim limitations. However, Applicant respectfully maintains that Averbuch in view of Park does not teach or suggest the limitations of claim 13. Apparently, the Examiner is relying upon Park's teaching of a base station comprising multiple antennas as teaching a plurality of stations. Applicant points out that Park's base stations are analogous to Averbuch's stationary base sites 102-112 and are believed by Applicant to be most akin to the claim's plurality of access points. As such, the Examiner is in effect, improperly attempting to read Averbuch's stationary base sites 102-112 and Park's base station (comprised of multiple antennas) onto two distinct claim limitations, namely, a plurality of stations and said plurality of access points.

Further, even if one were to read Park's multiple antennas to meet a plurality of stations, the claims would still not be met. Applicant notes that Park's mobile stations are analogous to Averbuch's communication units 207-213 and are most akin to the claims plurality of wireless devices. Applicant respectfully points out that the base station (to which the multiple antennas are connected) communicates with mobile stations (see column 6, lines

34-35) and not with a plurality of access points. As such, Averbuch in view of Park does not teach or suggest a plurality of stations for communicating with said plurality of access points. Thus, the prior art references when combined do not teach or suggest all the claim limitations. Therefore, Applicant respectfully asserts that claim 13 is patentable over Averbuch in view of Park and requests that the rejection be withdrawn.

3. Claim 18

Claim 18 depends from and inherits all the limitations of claim 13. As discussed above, claim 13 contains features and limitations that are not found in Averbuch in view of Park. As such, Averbuch in view of Park does not teach or suggest all the limitations of claim 18. Thus, the prior art references when combined do not teach or suggest all the claim limitations. Therefore, Applicant respectfully asserts that claim 18 is patentable over the prior art and requests that the rejection be withdrawn.

C. Claim 3; Averbuch and Chia

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Chia (US 5396253). Claim 3 depends from and inherits all the limitations of claim 1. As discussed above, claim 1 contains features and limitations that are not found in Averbuch. Chia is not relied upon and neither teaches nor suggests such limitations. As such, Averbuch in view of Chia does not teach or suggest all the limitations of claim 3. Thus, the prior art references when combined do not teach or suggest all the claim limitations. Therefore, Applicant respectfully asserts that claim 3 is patentable over the prior art and requests that the rejection be withdrawn.

D. Claim 11; Averbuch, Park, and Chia.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Park and Chia. Claim 11 depends from and inherits all the limitations of claim 9. As discussed above, claim 9 contains features and limitations not found Averbuch in view of Park. Chia is not relied upon and neither teaches nor suggests such limitations. As such, Averbuch in view of Park and Chia does not teach or suggest all the limitations of claim 11.

Thus, the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claim 11 is patentable over the prior art and requests that the rejection be withdrawn.

E. Claim 4; Averbuch and Shostak

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Shostak (US 2004/0043797). Claim 4 depends from and inherits all the limitations of claim 1. As discussed above, claim 1 contains features and limitations not found in Averbuch. Shostak is not relied upon and neither teaches nor suggests such limitations. As such, Averbuch in view of Shostak does not teach or suggest all the limitations of claim 4. Thus, the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claim 4 is patentable over the prior art and requests that the rejection be withdrawn.

F. Claims 10 and 17; Averbuch, Park, and Shostak

Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Park and Shostak. Claims 10 and 17 each depend from and inherit all the limitations from one of claims 9 and 13. As discussed above, claims 9 and 13 contain features and limitations not found in Averbuch in view of Park. Shostak is not relied upon and neither teaches nor suggests such limitations. As such, Averbuch in view of Park and Shostak does not teach or suggest all the limitations of claims 10 and 17. Thus, the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claims 10 and 17 are patentable over the prior art and requests that the rejection be withdrawn.

G. Claims 5-6; Averbuch and Noll

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Noll et al. (US 2003/0153316, hereinafter Noll). Claims 5-6 each depend from and inherit all the limitations of claim 1. As discussed above, claim 1 contains features and limitations not found in Averbuch. Noll is not relied upon and neither teaches nor suggests

such limitations. As such, Averbuch in view of Noll does not teach or suggest all the limitations of claims 5-6. Thus the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claims 5-6 are patentable over the prior art and requests that the rejection be withdrawn.

H. Claims 14-16; Averbuch, Park, and Noll.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Park and Noll. Claims 14-16 each depend from and inherit all the limitations of claim 13. As discussed above claim 13 contains features and limitations not found in Averbuch in view of Park. Noll is not relied upon and neither teaches nor suggests such limitations. As such, Averbuch in view of Park and Noll does not teach or suggest all the limitations of claims 14-16. Thus, the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claims 14-16 are patentable over the prior art and requests that the rejection be withdrawn.

I. Claim 12; Averbuch, Park, and Haumont.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Park and Haumont et al. (US 2001/0012279, hereinafter Haumont). Claim 12 depends from and inherits all the limitations of claim 9. As discussed above, claim 9 contains features and limitations not found in Averbuch in view of Park. Haumont is not relied upon and neither teaches or suggests such limitations. As such, Averbuch in view of Park and Haumont does not teach or suggest all the limitations of claim 12. Thus, the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claim 12 is patentable over the prior art and requests that the rejection be withdrawn.

J. Claim 7; Averbuch, Haumont, and Gresham

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch in view of Haumont and Gresham et al. (US 2002/0160773). Claim 7 depends from and inherits all the limitations of claim 1. As discussed above, claim 1 contains features and limitations

not found in Averbuch. Haumont and Gresham are not relied upon and neither teach nor suggest such limitations. As such, Averbuch in view of Haumont and Gresham do not teach or suggest all the limitations of claim 7. Thus, the prior art references when combined do not teach or suggest all claim limitations. Therefore, Applicant respectfully asserts that claim 7 is patentable over the prior art and request that the rejection be withdrawn.

III. SUMMARY

In view of the above, Applicant believes the pending application is in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner pass the claims to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 64032/P015US/10404210 from which the undersigned is authorized to draw.

Dated: August 17, 2006

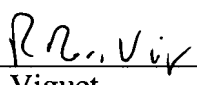
Respectfully submitted,

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Dated: August 17, 2006

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